



Agenda Date: 10/22/03
Agenda Item: 3B

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

OFFICE OF CABLE
TELEVISION

IN THE MATTER OF REGULATIONS OF)
CABLE TELEVISION PROPOSED RE-ADOPTION)
WITH AMENDMENTS: N.J.A.C. 14:18)

ORDER GRANTING WAIVER
OF ELEMENTS OF
N.J.A.C. 14:18-3.7

BPU DOCKET NO. CO03100796

(SEE ATTACHED SERVICE LIST)

BY THE BOARD:

The New Jersey Board of Public Utilities (Board) and its Office of Cable Television (OCTV), pursuant to N.J.S.A. 48:5A-1 et seq., have been granted general supervision and regulation of, and jurisdiction and control over, all cable television systems which operate within the State of New Jersey, subject only to the limitations of federal law. Pursuant to this authority, the within matter was opened in conjunction with the readoption of the Regulations of Cable Television currently pending before the Board.

During the pendency of the readoption, the cable television operators in the State requested that the proposed language of N.J.A.C. 14:18-3.7, requiring the inclusion on each bill of "[I]dentification of each component for all service packages and the rate for each component," be modified. The cable operators in the State, through their advocacy organization, the New Jersey Cable Telecommunications Association (NJCTA), indicated their belief that the proposed rule was overly burdensome and would create undue hardship in their billing processes due to the level of changes necessary to implement the printing. Accordingly, the NJCTA sought an amendment. Because of the time frame involved, and the need to insure adoption of the rules, this request for a modification was denied. Instead, the NJCTA now seeks a waiver of the proposed rule language for its members, seeking to be allowed to use a bill insert, "bill stuffer" or separate mailing to provide the same information to the customer on a regular basis, with the belief that this approach would provide a similar level of protection to the customers throughout the State and would benefit the interests of the general public by ensuring a clear presentation of the proposed information.

The OCTV, following discussions with the NJCTA and other interested parties, came to the conclusion that a waiver is reasonable, appropriate and in the interests of the general public, as required under N.J.A.C. 14:1-1.2. Accordingly, OCTV recommends the waiver, with a requirement that the cable operator must select and continue to use the same method of notification for the 2004 calendar year. Additionally, OCTV recognizes that the granting of this

waiver indicates a need to reexamine the text of N.J.A.C. 14:18-3.7 and determine possible amendment.

Therefore, based upon the assertions by the NJCTA, and in light of the Board's ability to waive aspects of its rules under N.J.A.C. 14:1-1.2 for good cause shown, the Board HEREBY FINDS that a waiver is appropriate in this situation. The Board FURTHER FINDS that this waiver should remain in effect until the Board has the opportunity to amend N.J.A.C. 14:18-3.7 or until the Board orders otherwise. Accordingly, the Board HEREBY ORDERS that cable operators shall either identify each component for all service packages and the rate for each component directly on the bill as required by N.J.A.C. 14:18-3.7 or shall provide the same information via a bill insert, "bill stuffer" or separate mailing sent to each customer on at least a bi-monthly basis, ensuring that the customer shall receive the insert or mailing at least six (6) times per calendar year. The Board FURTHER ORDERS that, in the event a cable operator wishes to operate under this waiver, the cable operator shall declare its intention in writing to the Director of the Office of Cable Television that it will be bound to the requirements of this waiver for the 2004 calendar year. The Board FURTHER ORDERS that the filing of this intention shall be submitted no later than February 1, 2004, with implementation of either method to begin on that date. In the event that the Board has not amended N.J.A.C. 14:18-3.7 prior to the 2005 calendar year, each cable operator must elect to operate under this waiver by declaring its intention in writing to the Director of the Office of Cable Television no later than November 15, 2004, except that upon adoption of an amendment to N.J.A.C. 14:18-3.7, the regulation as amended shall govern and the waiver granted by this Order shall expire. The Board FURTHER ORDERS that, in the event a cable operator fails to elect to operate under this waiver for any or all of its service territories by the requisite deadline, the cable operator shall be bound by the language in N.J.A.C. 14:18-3.7, as adopted. Finally, the Board FURTHER ORDERS the Office of Cable Television to immediately begin the process of reviewing N.J.A.C. 14:18-3.7 to determine the need to amend the regulation to protect and clarify the interests and issues raised in this proceeding.

DATED: October 23, 2003

BOARD OF PUBLIC UTILITIES
BY:

(signed)

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PRESIDENT

(signed)

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COMMISSIONER

(signed)

CAROL J. MURPHY
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(signed)

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ATTEST:

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